

(A) discarding the retained fish is impracticable;

(B) the retained fish do not constitute a significant portion of the catch of the vessel; and

(C) retention of the fish will not, in the judgment of the Secretary, adversely affect the conservation of the species of fish retained.

**(e) Prohibited acts during moratorium**

During the time in which a moratorium under this section is in effect, it is unlawful for any person to—

(1) violate the terms of the moratorium or of any implementing regulation issued under subsection (d) of this section;

(2) engage in fishing for any species of fish to which the moratorium applies within the waters of the State subject to the moratorium;

(3) land, attempt to land, or possess fish that are caught, taken, or harvested in violation of the moratorium or of any implementing regulation issued under subsection (d) of this section;

(4) fail to return to the water immediately, with a minimum of injury, any fish to which the moratorium applies that are taken incidental to fishing for species other than those to which the moratorium applies, except as provided by regulations issued under subsection (d) of this section;

(5) refuse to permit any officer authorized to enforce the provisions of this chapter to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of this chapter;

(6) forcibly assault, resist, oppose, impede, intimidate, or interfere with any such authorized officer in the conduct of any search or inspection under this chapter;

(7) resist a lawful arrest for any act prohibited by this section;

(8) ship, transport, offer for sale, sell, purchase, import, or have custody, control, or possession of, any fish taken or retained in violation of this chapter; or

(9) interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that such other person has committed any act prohibited by this section.

**(f) Civil and criminal penalties**

(1) Any person who commits any act that is unlawful under subsection (e) of this section shall be liable to the United States for a civil penalty as provided by section 308 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1858).

(2) Any person who commits an act prohibited by paragraph (5), (6), (7), or (9) of subsection (e) of this section is guilty of an offense punishable as provided by section 309(a)(1) and (b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1859(a)(1) and (b)).

**(g) Civil forfeitures**

(1) Any vessel (including its gear, equipment, appurtenances, stores, and cargo) used, and any fish (or the fair market value thereof) taken or retained, in any manner, in connection with, or

as the result of, the commission of any act that is unlawful under subsection (e) of this section, shall be subject to forfeiture to the United States as provided in section 310 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1860).

(2) Any fish seized pursuant to this chapter may be disposed of pursuant to the order of a court of competent jurisdiction or, if perishable, in a manner prescribed in regulation.

**(h) Enforcement**

A person authorized by the Secretary or the Secretary of the department in which the Coast Guard is operating may take any action to enforce a moratorium declared under subsection (c) of this section that an officer authorized by the Secretary under section 311(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1861(b)) may take to enforce that Act [16 U.S.C. 1801 et seq.]. The Secretary may, by agreement, on a reimbursable basis or otherwise, utilize the personnel, services, equipment (including aircraft and vessels), and facilities of any other Federal department or agency and of any agency of a State in carrying out that enforcement.

(Pub. L. 103-206, title VIII, § 807, Dec. 20, 1993, 107 Stat. 2451.)

REFERENCES IN TEXT

The Magnuson Fishery Conservation and Management Act, referred to in subsec. (h), is Pub. L. 94-265, Apr. 13, 1976, 90 Stat. 331, as amended, which is classified principally to chapter 38 (§1801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

**§ 5107. Financial assistance**

The Secretary and the Secretary of the Interior may provide financial assistance to the Commission and to the States to carry out their respective responsibilities under this chapter, including—

(1) the preparation, implementation, and enforcement of coastal fishery management plans; and

(2) State activities that are specifically required within such plans.

(Pub. L. 103-206, title VIII, § 808, Dec. 20, 1993, 107 Stat. 2453.)

**§ 5108. Authorization of appropriations**

To carry out the provisions of this chapter, there are authorized to be appropriated \$3,000,000 for fiscal year 1994, \$5,000,000 for fiscal year 1995, and \$7,000,000 for fiscal year 1996.

(Pub. L. 103-206, title VIII, § 809, Dec. 20, 1993, 107 Stat. 2453.)

**CHAPTER 72—RECREATIONAL HUNTING SAFETY**

Sec.  
5201.  
5202.

Obstruction of a lawful hunt.  
Civil penalties.

- (a) In general.
- (b) Computation of penalty.
- (c) Relationship to other penalties.
- (d) Procedure.

Sec.

- (e) Use of penalty money collected.
- 5203. Other relief.
- 5204. Relationship to State and local law and civil actions.
- 5205. Regulations.
- 5206. Rule of construction.
- 5207. Definitions.

**§ 5201. Obstruction of a lawful hunt**

It is a violation of this section intentionally to engage in any physical conduct that significantly hinders a lawful hunt.

(Pub. L. 103-322, title XXXII, § 320802, Sept. 13, 1994, 108 Stat. 2121.)

**SHORT TITLE**

Section 320801 of title XXXII of Pub. L. 103-322 provided that: “This subtitle [subtitle H (§§ 320801-320808) of title XXXII of Pub. L. 103-322, enacting this chapter] may be cited as the ‘Recreational Hunting Safety and Preservation Act of 1994.’”

**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in sections 5202, 5203 of this title.

**§ 5202. Civil penalties****(a) In general**

A person who violates section 5201 of this title shall be assessed a civil penalty in an amount computed under subsection (b) of this section.

**(b) Computation of penalty**

The penalty shall be—

- (1) not more than \$10,000, if the violation involved the use of force or violence, or the threatened use of force or violence, against the person or property of another person; and
- (2) not more than \$5,000 for any other violation.

**(c) Relationship to other penalties**

The penalties established by this section shall be in addition to other criminal or civil penalties that may be levied against the person as a result of an activity in violation of section 5201 of this title.

**(d) Procedure**

Upon receipt of—

- (1) a written complaint from an officer, employee, or agent of the Forest Service, Bureau of Land Management, National Park Service, United States Fish and Wildlife Service, or other Federal agency that a person violated section 5201 of this title; or
- (2) a sworn affidavit from an individual and a determination by the Secretary that the statement contains sufficient factual allegations to create a reasonable belief that a violation of section 5201 of this title has occurred;

the Secretary may request the Attorney General of the United States to institute a civil action for the imposition and collection of the civil penalty under this section.

**(e) Use of penalty money collected**

After deduction of costs attributable to collection, money collected from penalties shall be—

- (1) deposited into the trust fund established pursuant to the Act entitled “An Act to pro-

vide that the United States shall aid the States in wildlife-restoration projects, and for other purposes”, approved September 2, 1937 (16 U.S.C. 669) (commonly known as the “Pitman-Robertson Wildlife Restoration Act”), to support the activities authorized by such Act and undertaken by State wildlife management agencies; or

(2) used in such other manner as the Secretary determines will enhance the funding and implementation of—

(A) the North American Waterfowl Management Plan signed by the Secretary of the Interior and the Minister of Environment for Canada in May 1986; or

(B) a similar program that the Secretary determines will enhance wildlife management—

(i) on Federal lands; or

(ii) on private or State-owned lands when the efforts will also provide a benefit to wildlife management objectives on Federal lands.

(Pub. L. 103-322, title XXXII, § 320803, Sept. 13, 1994, 108 Stat. 2121.)

**REFERENCES IN TEXT**

The Pitman-Robertson Wildlife Restoration Act, referred to in subsec. (e)(1), is act Sept. 2, 1937, ch. 899, 50 Stat. 917, as amended, also known as the Federal Aid in Wildlife Restoration Act, which is classified generally to chapter 5B (§669 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 669 of this title and Tables.

**§ 5203. Other relief**

Injunctive relief against a violation of section 5201 of this title may be sought by—

- (1) the head of a State agency with jurisdiction over fish or wildlife management;
- (2) the Attorney General of the United States; or
- (3) any person who is or would be adversely affected by the violation.

(Pub. L. 103-322, title XXXII, § 320804, Sept. 13, 1994, 108 Stat. 2122.)

**§ 5204. Relationship to State and local law and civil actions**

This chapter does not preempt a State law or local ordinance that provides for civil or criminal penalties for conduct that violates this chapter.

(Pub. L. 103-322, title XXXII, § 320805, Sept. 13, 1994, 108 Stat. 2122.)

**§ 5205. Regulations**

The Secretary may issue such regulations as are necessary to carry out this chapter.

(Pub. L. 103-322, title XXXII, § 320806, Sept. 13, 1994, 108 Stat. 2122.)

**§ 5206. Rule of construction**

Nothing in this chapter shall be construed to impair a right guaranteed to a person under the first article of amendment to the Constitution or limit any legal remedy for forceful interference with a person’s lawful participation in speech or peaceful assembly.

(Pub. L. 103-322, title XXXII, §320807, Sept. 13, 1994, 108 Stat. 2122.)

### § 5207. Definitions

As used in this chapter:

#### (1) Federal lands

The term “Federal lands” means—

- (A) national forests;
- (B) public lands;
- (C) national parks; and
- (D) wildlife refuges.

#### (2) Lawful hunt

The term “lawful hunt” means the taking or harvesting (or attempted taking or harvesting) of wildlife or fish, on Federal lands, which—

- (A) is lawful under the laws applicable in the place it occurs; and
- (B) does not infringe upon a right of an owner of private property.

#### (3) National forest

The term “national forest” means lands included in the National Forest System (as defined in section 1609(a) of this title).

#### (4) National park

The term “national park” means lands and waters included in the National Park System (as defined in section 1c(a) of this title).

#### (5) Public lands

The term “public lands” has the same meaning as is provided in section 1702(e) of title 43.

#### (6) Secretary

The term “Secretary” means—

- (A) the Secretary of Agriculture with respect to national forests; and
- (B) the Secretary of the Interior with respect to—
  - (i) public lands;
  - (ii) national parks; and
  - (iii) wildlife refuges.

#### (7) Wildlife refuge

The term “wildlife refuge” means lands and waters included in the National Wildlife Refuge System (as established by section 668dd of this title).

#### (8) Conduct

The term “conduct” does not include speech protected by the first article of amendment to the Constitution.

(Pub. L. 103-322, title XXXII, §320808, Sept. 13, 1994, 108 Stat. 2122.)

## CHAPTER 73—RHINOCEROS AND TIGER CONSERVATION

Sec.	
5301.	Findings.
5302.	Purposes.
5303.	Definitions.
5304.	Rhinoceros and tiger conservation assistance. <ul style="list-style-type: none"> <li>(a) In general.</li> <li>(b) Project proposal.</li> <li>(c) Project review and approval.</li> <li>(d) Criteria for approval.</li> <li>(e) Project sustainability.</li> <li>(f) Project reporting.</li> </ul>
5305.	Rhinoceros and Tiger Conservation Fund.

Sec.

- (a) Establishment.
- (b) Deposits into Fund.
- (c) Use.
- (d) Acceptance and use of donations.

5306. Authorization of appropriations.

### § 5301. Findings

The Congress finds the following:

(1) The world’s rhinoceros population is declining at an alarming rate, a 90 percent decline since 1970.

(2) All 5 subspecies of tiger are currently threatened with extinction in the wild, with approximately 5,000 to 6,000 tigers remaining worldwide.

(3) All rhinoceros species have been listed on Appendix I of CITES since 1977.

(4) All tiger subspecies have been listed on Appendix I of CITES since 1987.

(5) The tiger and all rhinoceros species, except the southern subspecies of white rhinoceros, are listed as endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

(6) In 1987, the parties to CITES adopted a resolution that urged all parties to establish a moratorium on the sale and trade in rhinoceros products (other than legally taken trophies), to destroy government stockpiles of rhinoceros horn, and to exert pressure on countries continuing to allow trade in rhinoceros products.

(7) On September 7, 1993, under section 1978 of title 22 the Secretary certified that the People’s Republic of China and Taiwan were engaged in trade of rhinoceros parts and tiger parts that diminished the effectiveness of an international conservation program for that endangered species.

(8) On September 9, 1993, the Standing Committee of CITES, in debating the continuing problem of trade in rhinoceros horn and tiger parts, adopted a resolution urging parties to CITES to implement stricter domestic measures, up to and including an immediate prohibition in trade in wildlife species.

(9) On November 8, 1993, under section 1978 of title 22, the President announced that the United States would impose trade sanctions against China and Taiwan unless substantial progress was made by March 1994 towards ending trade in rhinoceros and tiger products.

(10) On April 11, 1994, under section 1978 of title 22, the President—

(A) directed that imports of wildlife specimens and products from Taiwan be prohibited, in response to Taiwan’s failure to undertake sufficient actions to stop illegal rhinoceros and tiger trade; and

(B) indicated that the certification of China would remain in effect and directed that additional monitoring of China’s progress be undertaken.

(Pub. L. 103-391, §2, Oct. 22, 1994, 108 Stat. 4094.)

#### REFERENCES IN TEXT

The Endangered Species Act of 1973, referred to in par. (5), is Pub. L. 93-205, Dec. 28, 1973, 87 Stat. 884, as amended, which is classified generally to chapter 35 (§1531 et seq.) of this title. For complete classification